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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,549	05/01/2000	Joseph Giovannoli		6863

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EXAMINER

KYLE, CHARLES R

ART UNIT PAPER NUMBER

3624

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/703,549

Applicant(s)

GIOVANNOLI, JOSEPH

Examiner

Charles R Kyle

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MGJ

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Reissue Applications

The Examiner notes that Applicant has surrendered his Patent, U S number 5,842,178 and that the original patent document is now part of the file of this reissue application.

The Examiner notes that Applicant may have his originally issued Patent, U S number 5,842,178 returned if this application is abandoned and a request for return is received by Technology Center 3600. See MPEP Section 1416.

Applicant is reminded of the proper format for amendments to the specification of a reissue application. See 37 CFR 1.173.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-43 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to Claims 1-43 and 45, Applicant has amended to include the concept of broadcasting data. He specifies, however, that broadcasting is done selectively through filtering. (See US 5,842,178 at Col. 3, lines 9-25, particularly 18-20). This is inconsistent. A broadcast is either done to all parties or it is not a broadcast. For this reason, Silverman, unlike Applicant,

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discloses true broadcasting. Applicant has quoted Silverman as reciting that Silverman discloses broadcasting “of the transaction to the remote terminals of *all* traders of the system”. To the best of the Examiner’s understanding, the concept of Applicant’s invention is only the *communication* of filtered information. This communication of information has been addressed by prior office actions and as set forth below.

Concerning Claim 1, it recites the phrases “a plurality of buyer information... representing buyers” and “a plurality of seller information representing sellers”; the meanings are unclear. It also recites the phrase “filter means for accepting filter conditions from RFQs from buyers”. This unclear; the Examiner assumes for purposes of examination that the intent is that there is a filter means for accepting filter conditions set out within RFQs.

As to Claim 2 it recites the phrase “communicating, to centralized filter means” but lacks an article for “centralized filter means”.

As to Claim 3-19, they recite the phrase “sending a purchase request by said buyer to selected seller” but lacks an article for “selected seller”.

With respect to Claims 20- 30, they recite the phrase “providing broadcasting over said communications network... a page including information”. It appears that Applicant intends for “providing” to be removed.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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The rejection of Claims 1 and 31-41 are rejected under 35 U.S.C. 101 is withdrawn based on Applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron et al in view of Silverman et al.

Regarding Claim 1, Cameron et al disclose the invention substantially as claimed including in a system for engaging in commercial transactions (Abstract);

filter means for accepting filter conditions from buyers and sellers (Abstract, Summary of the Invention);

a plurality of buyer information conforming to a seller defined class of buyer information, said buyer information representing buyers (Col. 9, line 49 to Col. 10, line 44) for communicating RFQs (Col. 14, lines 51-61) to said filter means, said RFQs being communicated to terminals to be received by sellers subject to said filter conditions ;

a plurality of seller information representing sellers(Col. 13, line 40 to Col. 14, line 61) for communicating quotes (Col. 1, line 5 to Col. 3, line 27) to said filter means in response to a specific RFQ of said RFQs,
and which quotes should be received by the buyer (Summary of the Invention).

Cameron et al do not specifically disclose that the filter means includes a bi-directional filtering of quote information to define seller/buyer classes as set forth in the amended Claims. Silverman et al disclose this feature at Col. 8, line 66 to Col. 9, line 20 and Fig. 2. In Silverman, the seller defines a class of buyers as well as the reverse. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the bi-directional filtering feature disclose by Silverman et al in the commercial system of Cameron et al because this would have allowed parties to view quotations from only those counter parties with whom they would most successfully and profitably deal. For example, a zip code filter element for screening suppliers would have allowed a buyer to send RFQs only to those nearby suppliers who could likely submit a competitive quote. See below. A buyer of a heavy auto batteries would not have wanted to submit RFQs to a battery supplier located across the country because such a supplier would have been non-competitive due to excessively high shipping costs. The buyer would only have wished to send RFQs to those sellers who might most cheaply deliver batteries.

Further, Silverman specifically discloses several criteria for filtering such as geographic location at Col. 1, lines 63+. The concept of bi-directional filtering on these bases occurs throughout Silverman.

Applicant has amended to add the concept of broadcasting of information to sellers and argues that Silverman does not show broadcasting. Silverman does disclose broadcasting, at among other places, Col. 8, lines 39-41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cameron with the broadcasting disclosed by Silverman because this would have placed requests for pricing information with the greatest number of suitable sellers and increased profitable market activity.

Concerning Claim 2, Cameron et al disclose the invention substantially as claimed including in a method of utilizing a data network (Col. 4, line 54 to Col. 5, line 12) for advertising and selling items for sale by a seller (Abstract) including the steps of:

communicating, to centralized filter means (Abstract, Summary of the Invention), from a plurality of sellers (Background of the Invention; Col. 17, lines 4-58) the information indicating items offered for sale (Coll. 1, line 5 to Col. 3, line 27) to at least one class of buyers (Col. 9, line 51 to Col. 10, line 43) to receive sale information;

communicating, to the centralized filter means, from a potential buyer, a category of item in which said buyer is interested (Col. 15, line 66 to Col. 16, line 48);

using said centralized filter means to match buyer and seller supplied information (Summary of the Invention);

communicating an offer for sale from said seller for at least one item in said category of items indicated, to a buyer if said buyer is within said class and said items are within said category (Col. 13, line 28 to Col. 17, line 58) .

Cameron et al do not specifically disclose that the filter means includes a bi-directional filtering and communication of quote information to defined seller classes and as set forth in the amended Claims. Silverman et al disclose this feature at Col. 8, line 66 to Col. 9, line 20 and Fig. 2. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the bi-directional filtering feature disclosed by Silverman et al in the method of Cameron et al because this would have allowed parties to view quotations from only those counter parties with whom they would most successfully and profitably deal. Also, see the comments regarding filtering set forth in the rejection of Claim 1.

Applicant has amended to add the concept of broadcasting of information to sellers and argues that Silverman does not show broadcasting. Silverman does disclose broadcasting, at among other places, Col. 8, lines 39-41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cameron with the broadcasting disclosed by Silverman because this would have placed requests for pricing information with the greatest number of suitable sellers and increased profitable market activity. This reasoning also applies to the other claims reciting this new limitation.

Claims 3-6, 8-13, 15, and 18-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron et al and Silverman et al in view of Taylor.

With respect to Claim 3, see the discussion of Claim 20 below, a more comprehensive claim.

Concerning Claim 4, Cameron et al discloses completing a purchase request by clicking without further input at Col. 16, lines 49-62. Further see Taylor at pages 244 and 214 for the use of links in purchasing and a link definition.

As to Claim 5, Cameron et al discloses authorization for the use of credit information at Col. 11, line 50 to Col. 12, line 54.

Regarding Claim 6, see the discussion of Claim 4 above.

Concerning Claim 8, Cameron et al disclose credit information including billing and shipping information at Col. 10, line 54 to Col. 11, line 22 and Col. 17, line 60 to Col. 18, line 35 respectively.

As to Claim 9, Cameron et al disclose that buyer's credit information is prestored in a server at Col. 4, line 54 to Col. 5, line 64 and Col. 10, line 46 to Col. 12, line 60.

With respect to Claim 10, Cameron et al disclose a server that is remotely accessible by a seller through a network at Fig. 1, element 6 and Col. 4, line 54 to Col. 5, line 12.

Concerning Claim 11, Taylor discloses a link in an email message at page 33, "electronic mail URL". It would have been obvious to have provided a link in this form because this would have allowed a buyer to have reply with a purchase request using a familiar and convenient network communication tool.

Concerning Claim 12, Taylor discloses hypertext link containing web page at page 213 and page 214, Fig. 12-12. It would have been obvious to have provided a link in this form because this would have allowed a buyer to have navigated to a suitable web page to complete a purchase request using a familiar and convenient network communication tool.

As to Claim 13, see the discussion of Claims 11 and 4.

With respect to Claim 15, Cameron et al disclose a page containing a link to further product information at Fig. 22 and Col. 15, lines 21-27.

Regarding Claim 18, see the discussion of Claim 17 above and it would further have been obvious to have sent a purchase request to the CPU as this was where the purchase processing was done.

With respect to Claim 19, the use of a browser for purchasing is disclosed by Taylor at pages 40-41 and page 214. See the Internet Explorer © symbol at the upper left hand corner of the webpage illustration of page 214.

Concerning Claim 20, Cameron et al and Silverman disclose the invention substantially as claimed as discussed above, including in a method of effectuating a purchase between a buyer and a seller over a computer communications network (Abstract; Col. 5, lines 11-12; Fig 1; Col. 4, line 66 to Col. Col. 5, line 64), the steps of:

a. defining seller and buyer classes (Silverman et al disclose this feature at Col. 8, line 66 to Col. 9, line 20 and Fig. 2 and as above);

Cameron further discloses:

b. communicating credit information of at least one buyer of said class of buyers to at least one seller of said class of sellers (Col. 12, line 61 to Col. 13, line 3):

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- c. communicating over said computer communications network, from one or more sellers (Background of the Invention; Col. 17, lines 4-58), a page including information of a seller's offer (Fig. 20 and 22-26; Col. 13, line 25 to Col. 17, line 57) and a link for said buyer to make a response (Col. 16, lines 49-62);
- d. displaying said link containing page to said buyer (Col. 3, lines 3-20);
- e. sending a purchase request by said buyer to the selected seller by clicking on a link (Col. 16, lines 49-62)
- f. fulfilling said purchase upon receipt of said purchase request from said buyer (Col. 17, line 60 to Col. 18, line 62).

Cameron et al and Silverman do not specifically disclose that the link is a hypertext link. Taylor, however, discloses the use of hypertext links (buttons) in effectuating a purchase between a buyer and a seller at pages 213-217, particularly page 214. See also Taylor, pages 96-110 for a specific disclosure of the use of hypertext links in a "Virtual Deli" business. It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the hypertext links disclosed by Taylor in the method of Cameron et al because this would have provided a quick and easy way for buyers to perform the purchase functions disclosed by Cameron et al on the Internet, a computer communications network.

As well, during the prosecution, of this Application, Applicant has admitted that the use of hypertext links was well known. See Paper No. 10, page 6, first full paragraph. The quickness and ease of their use is suggested by the Ginsburg reference (1993), bracketed text.

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Applicant has amended to add the concept of broadcasting of information to sellers and argues that Silverman does not show broadcasting. Silverman does disclose broadcasting, at among other places, Col. 8, lines 39-41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cameron with the broadcasting disclosed by Silverman because this would have placed requests for pricing information with the greatest number of suitable sellers and increased profitable market activity. This reasoning also applies to the other claims reciting this new limitation.

Concerning Claim 21, Cameron et al further discloses remote accessibility to a CPU by a buyer and seller at Fig. 1 and Col. 5, lines 6-12.

As to Claim 22, see the discussion of Claim 21 and Cameron et al further disclose displaying a page to a buyer at Col. 3, lines 3-19.

Regarding Claim 23, see the discussion of Claim 22 and it would further have been obvious to have had the seller display the page because the seller would have been the party with the most readily available and up-to-date information to be displayed.

With respect to Claim 24-26, see the discussions of Claims 11, 12 and 14 above.

As to Claim 27, see the discussion of Claim 18 above. See also Fig. 6, elements 34 and 10.

Regarding Claim 28, Cameron et al disclose retrieval of buyer's credit information to fulfill a purchase at Col. 10, line 54 to Col. 11, line 36.

As to Claim 29 and 30, Cameron et al disclose the clearing of credit at Col. 11, lines 50-60. Further it would have been obvious to have performed such clearing at the CPU because this was the location for the purchase processing disclosed by Cameron et al.

With respect to Claim 31, it is the system form of Claim 3 and is rejected in a like manner. See also the system disclosed by Cameron et al at Figs. 1 and 2 and related text for specific disclosure of a system to perform the method of Claim 3. Additionally, Applicant has added phrasing with the concept of broadcasting to the preamble; the concept does not give life and breath to the body of the Claim and is not considered to have patentable weight.

Regarding Claim 32, see the discussion of Claims 9 and 10 above.

Regarding Claim 33, it would have been obvious to have provided access to buyer's credit to seller only upon receipt of a purchase request because this would have been one of only a few instances when it was needed by the seller. Such limited access would have reduced the likelihood that an unscrupulous employee would have misused buyer's credit information. Such information should have been provided only on a need-to-know basis.

Concerning Claim 34, Cameron et al disclose a buyer identifier to access credit information at Col. 9, line 49 to Col. 10, line 43 and Col. 11, lines 1-60.

Regarding Claims 35 and 36, see the discussion of Claims 9 and 10 above.

As to Claim 37, see the discussion of Claim 11 above.

Concerning Claim 38, Taylor discloses a hypertext link to show further information on an offer at page 214, Fig. 12-12, e.g. "Food and Beverages" item.

As to Claim 39, Cameron et al disclose a means for inputting buyer's credit information at Col. 11, lines 11-49 and Fig. 1, ele. 7.

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Regarding Claim 40, Taylor disclose a seller's website accessible through the network for providing a link containing page to a buyer at Page 214, Fig. 12-12.

With respect to Claim 41, Cameron et al disclose the network as the Internet, which uses TCP/IP (Transmission Control Protocol/Internet Protocol) at Col. 5, lines 11-12.

Regarding Claim 42, see the Abstract of Cameron et al and the discussions of Claims 20, 21 and 27 above.

With respect to Claim 43, see the discussion of Claim 42 above and Cameron et al further disclose credit verification at Col. 11, lines 50-60.

As to Claim 45, see the discussion of Claims 3,5,8 and 9 above

Claims 7, 14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron et al, Silverman and Taylor in view of Ginsburg.

With respect to Claim 7, see the discussion of Claims 3, 5 and 6 above. The Cameron et al, Silverman and Taylor and references do not specifically teach the use of a single click to complete a purchase request, although this would have been obvious due to the simplicity and speed of such an operation. Ginsburg specifically discloses this feature at page 3, bracketed text. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used the single click purchase completion disclosed by Ginsburg in the combination of Cameron et al and Taylor because of the convenience cited by Ginsburg at item 1, bracketed text. Ginsburg also provides clear motivation for the combination of the detailed elements of Cameron et al and Taylor because of his concise disclosure of click, and specifically single click methods in an Internet based purchasing system.

Regarding Claim 14, see the discussion of Claims 4, 6 and 7 above. Further, Ginsburg discloses clicking on a hypertext link to send a purchase request to the seller at page 3, second paragraph, the discussion of buying squid at Al's Bait Shop. Further, it would have been obvious to have directly sent such a purchase request to the seller because this would have aided quickest delivery of purchased items.

Regarding Claim 16, see the discussion of Claim 14 above and it would further have been obvious to modify Cameron et al and Taylor by having the seller provide the page to the buyer directly because this would have provided the most up-to-date information and pricing available to the potential buyer. Note that Ginsburg specifically discloses that "Al's Bait Shop catalog" is presented in connection with the "Buy Squid" link to purchase.

With respect to Claim 17, Cameron et al discloses that the page is provided by a CPU remotely accessible to buyer and seller on a communications network at Fig. 1, ele. 6 and Col. 4, lines 54 to Col. 5, line 64.

Response to Arguments

Applicant has amended to include the concept of broadcasting and argues this concept in the paper filed December 1, 2003. The Examiner's response the arguments on the amended language is presented in the rejections set forth above.

The affidavit filed on December 1, 2003 under 37 CFR 1.131 has been considered but is ineffective to overcome the Silverman reference.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Silverman reference to either a constructive reduction to practice

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or an actual reduction to practice. Applicant has submitted invoices and makes reference to copies of various work product, but provides no convincing evidence of uninterrupted work on making the invention.

The evidence submitted is insufficient to establish applicant's alleged actual reduction to practice of the invention in this country or a NAFTA or WTO member country after the effective date of the Silverman reference. Applicant has provided no evidence that the claimed invention existed and worked for its intended purpose.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on Monday - Friday, 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.


crk

January 5, 2004

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SUPERVISORY PATENT EXAMINER
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